



Discussion of Article 7 Changes

The Center for Exceptional Learners

October 14, 2008

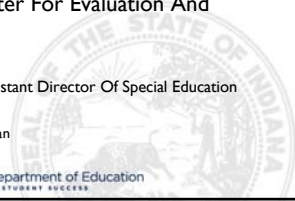
IASP - Holiday Inn, North

Sharon Knoth, Assistant Director



Article 7

- Effective Date: August 13, 2008
- Town Meetings
 - 26 Meetings Altogether
 - 12 Locations Throughout State
- Six Public Hearings
- Fiscal Impact Study: Center For Evaluation And Educational Policy
 - Advisory Team
 - Three Directors / One Assistant Director Of Special Education
 - Three Superintendents
 - Urban, Rural And Suburban



Fiscal Impact Analysis

Table 2

Rule Name	Increase	Decrease	Neutral	Indeterminable	Total
Total - Aligning with IDEA	1	2	1	1	5
Total - Deregulation Permitted by IDEA	0	17	10	0	27
Total - Leaves Decision to State	3	0	3	0	6
Total - Indiana's Response to IDEA	3	0	0	0	3
Total - Required by State Statute or Rule	1	0	1	0	2
Scorecard Grand Total	8	19	15	1	43

Overall Estimated Net Reduction in Expenditures

\$22,114,691.00



Rule 32: Definitions ADDED

- Academic Achievement
- Assessment
- Charter School
- Consultation & Collaboration
- Core Academic Subjects
- Early Intervening Services
- Educational Evaluation
- Eligibility
- Equipment
- Essential Components of Reading Instruction
- Functional Performance
- Highly Qualified
- Homeless Student
- Individualized Family Service Plan
- Infant or Toddler w/a Disability
- Initiation of Services & Program Modifications
- Institution of Higher Education
- Length & Frequency of Services
- Licensed Personnel
- Limited English Proficient



Rule 32: Definitions ADDED

- Multidisciplinary Team
- New Teacher
- Parentally-Placed Nonpublic School Student w/a Disability
- Parent Training/Info Center
- Print Instructional Materials
- Progress Monitoring
- Resolution Meeting
- Scientifically Based Research
- Secondary School
- Serious Bodily Injury
- Service Plan
- Social Interaction Skills
- Student of Legal Age
- Student w/a Print Disability
- Summary of Performance
- Systematic Observation
- Universal Design
- Veteran Teacher



Rule 33: General Provisions

- Students with disabilities are entitled to a FAPE upon their third (3rd) birthday up to 22 years of age.
 - Unless the student graduates from high school with a regular diploma, the right to FAPE concludes at the end of the school year in which the student turns 22 years of age.
 - CCC may always determine the student will leave earlier
 - LEAs may "count" (for state funding purposes) students who are 22 years of age and still being served by the LEA under the direction of an IEP
- LEA may access a parent's private insurance proceeds only if the parent provides informed consent each time the access is sought.



Rule 34: Nonpublic Schools or Facilities (Parentally-Placed)

- Program offered through service plan not an IEP
- LEA where the nonpublic schools are located is responsible for child find and provision of services
- Preschool children with disabilities aged 3-5 can be considered parentally-placed children under IDEA only if they are enrolled in a private school that is considered an elementary school
 Elementary School = A school that provides any combination of kindergarten and grades 1 through 8
- Consent required for disclosure of evaluations between the LEA of the parent's residence and the LEA where the private school is located
- Proportionate share of Part B funds must be spent on this population



Timely and Meaningful Consultation

- **TIMELY**
 - "...during the design and development of special education services for the students..."
- **MEANINGFUL**
 - "Afford all parties a genuine opportunity to express their views and have those views considered by the public agency."
 - Indiana has defined "meaningful consultation" as "a thoughtful participation in an exchange of views that goes beyond the simple receipt of information from one party."
- What should LEAs consider to ensure a timely & meaningful consultation?
 - Consultation process needs to be completed before the start of the new school year
 - By May, LEAs should be informed of the Part B, IDEA Pass-Through Funding
 - Due date for LEA's Part B Grant Application is mid-August every year (August 15, 2008).
 - LEAs should be prepared, have an agenda to candidly discuss student needs



Consultation Meeting Requirements

LEAs must:

- Discuss Child Find & how interested parties will be informed.
- Disclose its mandatory proportionate share & how it was determined.
- Describe the ongoing procedures to be used to ensure that those students identified through Child Find meaningfully participate.
- Discuss the types of services to be provided during the school year & how / when service decisions will be made.
- Discuss how a written explanation of the reasons why the LEA chose not to provide services directly or through a contract will be provided to nonpublic school representatives if the LEA disagrees with the views presented.



Affirmation Process / Final Decisions

- LEAs must obtain written affirmations from the nonpublic school representatives, indicating:
 - The five (5) required components were discussed, and
 - The meeting was timely and meaningful.
- If the LEA does not receive written affirmations within 20 instructional days of the date of the consultation meeting, the LEA must forward documentation of the process to the CEL.
- After consultation meetings, the LEA must make final decisions regarding services provided to nonpublic school students.
- If an LEA chooses not to accept the recommendations of the nonpublic school officials, it must provide to the officials a written explanation of the LEA's reasons.



Record Keeping Requirement

- LEAs must maintain in its records and provide to the SEA the following information:
 - The number of students evaluated;
 - The number of students determined to be children with disabilities; and
 - The number of students served.
- Important information in calculating the proportionate share.

NOTE: Also document that the parent was offered FAPE or informed of the right to FAPE by LEA of legal residence.
- In Calculating Proportionate Share:
 - Divide the number of eligible parentally-placed nonpublic school students by the total number of student with disabilities (public school and nonpublic school students with disabilities).
 - The quotient is multiplied by the public agency current Part B, §1411 (f) Sub-grant.
 - The product equals the public agency's proportionate share amount of Part B Funds that must be spent on eligible parentally-placed nonpublic school students.



Rule 35: Program Planning & Evaluation

- The requirements for a Comprehensive Plan have been removed.
- Program monitoring has been expanded.
- Supports for program personnel who are working on implementation of the student's IEP have been expanded.
 - Requirements for specialized training omitted for:
 - Autism Spectrum Disorder
 - Deaf-Blind
 - Other Health Impairment
 - Traumatic Brain Injury



Rule 36: Special Education Program Personnel

- Added the No Child Left Behind (NCLB) requirements for highly qualified paraprofessionals into the rule.
- Added the NCLB requirements for highly qualified teachers into the rule.
- Removed the class size/caseload requirement for early childhood programs; mirror that of 5 – 21 year old students.
- Added National Instructional Materials Accessibility Standard (NIMAS) requirements.



Rule 36: Special Education Program Personnel

- Expanded previous language on the administration of medication and on state and local assessments.
- Requires increased specificity in the building disaster plan:
 - Must address the individual needs of the students being served in the building
 - Must be reviewed on an annual as well as on an as needed basis
 - Must be implemented during emergency preparedness drills
 - Must be implemented during manmade occurrence drills



Rule 37: Procedural Safeguards

The notice of procedural safeguards shall be given to the parent of a student with a disability one time each school year, except that a copy also must be given to the parent upon:

- (1) initial referral or parental request for evaluation;
- (2) receipt of the first filing of a complaint in a school year;
- (3) receipt of the first due process hearing request in a school year;
- (4) the date the public agency decides to make a removal that results in a disciplinary change of placement, which includes removals to interim alternative education settings for:
 - (A) weapons;
 - (B) drugs; and
 - (C) serious bodily injury; and
- (5) request by a parent.



Rule 39: Educational Surrogate Parents

- If the student is a ward of the state and not residing with their parents; consent for an initial educational evaluation is not required if the LEA:
 - Made reasonable attempts to discover and obtain consent from the parents.
 - Has proof that the parents' rights have been terminated.
 - Has proof that the parents' educational decision making rights have been subrogated.
- Foster parents are now included in the definition of "parent" and therefore do not have to be appointed as an ESP.



Rule 40: Identification and Evaluation

- Child Find
 - The LEA is no longer required to publish public information awareness information activities through the media and other publications which circulate in the area,
 - Deemed to be an ineffective way to find eligible students
 - Child find itself is still required
- Comprehensive and Coordinated Early Intervening Services (CC-EIS)
 - The LEA may not use more than 15% of Part B in any fiscal year to implement CC-EIS.
 - If implemented the LEA must report:
 - Number Served
 - Number Subsequently Referred for Special Education During Preceding Two-Year Period



CC-EIS

- Considerations and Resources for your CC-EIS in three areas:
 - Continuum of curriculum, instruction, & interventions/extensions (C, I, I/E)
 - Assessment & progress monitoring
 - Data-based decision making
- Universal screening to identify students in need of additional intervention/extension
 - Assessment tool/instrument
 - Criterion
- Ongoing, formative assessment ("progress monitoring") at increasing frequency
 - Assessment tool/instrument
 - Frequency
 - Data management and graphing
 - Defined in 511 IC 7-32-76



Rule 40: Identification and Evaluation

- Comprehensive and Coordinated Early Intervening Services (CC-EIS)
 - Also referred to as Response to Intervention or Rtl
 - Replaces what was formerly known as General Education Intervention or GEI
- When an Intervention NOT Used With ALL Students is Implemented:
 - Parent must be provided written notification including:
 - Amount & Nature of Data to be Collected
 - General Education Services to be Provided
 - Parent Right to Request Educational Evaluation
 - If FULLY Implemented 20 vs. 50 Instructional Day Timeline

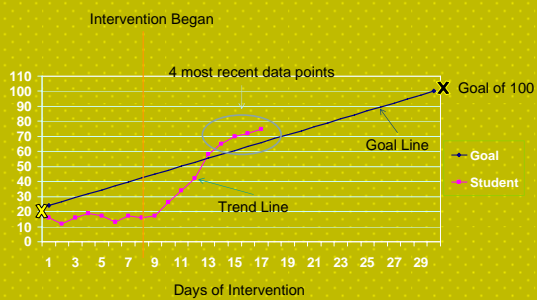


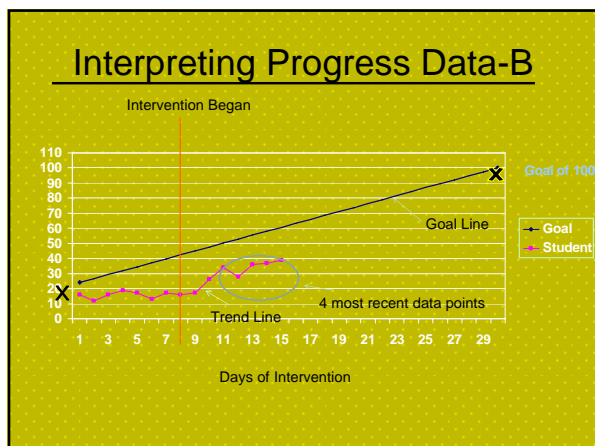
Progress Monitoring

- Determining responsiveness or “adequate progress” requires
 1. Timeline (e.g., number of weeks)
 2. Goal (e.g., based on national, state, local norms and/or rates of improvement)
 3. Sufficient data (prior to and after intervention)
 4. Interpretation of progress monitoring data
 - Visual analysis
 - Analysis of trend (pattern of change over time)
 - Analysis of level (average performance)
 - Analysis of trend and level (dual discrepancy)




Interpreting Progress Data-A






Thinking Beyond Visual Analysis

- Consider other interpretive approaches
 - Analysis of trend
 - Calculating slope, a metric of change
 - Comparing to expected (based on local or national) rates of change (also referred to as rates of improvement, ROI)
 - Analysis of level
 - Comparing student performance with expected level of performance (based on local, state, or national expectations)
 - Analysis of trend and level
 - An example: Student..
 - Makes less progress than other students at the 25th percentile AND
 - Performs below the level expected at the 10th percentile based on district norms


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Rule 40: Identification and Evaluation

- LEA is no longer required (but still may) use mediation or a due process hearing to pursue an initial educational evaluation when parent refuses to consent.
- NEW Evaluation Timelines
 - Parent Makes Request
 - Must be made to licensed personnel of the LEA
 - May be verbal or written
 - LEA has 10 instructional days from the date of the parent's request to provide the parent with written notice
 - Review the educational record of the student
 - Determine yes / no on moving forward on parent request


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Rule 40: Identification and Evaluation

- If NO – LEA is not going to evaluate the student written notice must include an explanation of due process rights
- If YES – must specify which assessment(s) will be provided
 - Cannot just have a laundry list
 - Parent must know/be able to understand which assessment(s) will be administered
 - Provided in parent's native language
 - Must ensure the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs (regardless of whether commonly linked to the suspected disability categories)



Rule 40: Identification and Evaluation

- Sufficient proof that the parent had the written notice in their possession within 10 instructional days from the date on which the parent made the request to licensed personnel
- No timeline for when parent must provide consent
 - May want to be sure you know to whom the parent is going to give written consent
 - Cannot mandate the specific licensed personnel to whom the parent must give their written consent
 - Cannot provide consent until written notice has been provided
- 50 instructional day timeline begins once licensed personnel receive written consent from the parent



Rule 40: Identification and Evaluation

- When parent provides written consent may also request:
 - A copy of the educational evaluation to be provided prior to the CCC meeting **and/or**
 - A meeting to have the results of the educational evaluation explained prior to the CCC meeting
- When the suspected disability is solely language or speech impairment –
 - If SPEECH ONLY the SLP may be the sole evaluator
 - If LANGUAGE IMPAIRMENT a qualified professional from a different discipline must be involved



Rule 40: Identification and Evaluation

- If a student transfers from one LEA to another during the evaluation timeline (whether progress monitoring / CC-EIS or educational evaluation) the receiving LEA must coordinate with the prior LEA as necessary and as expeditiously as possible to ensure prompt completion of the evaluation process.
- If the parent fails to make the student available for the evaluation the LEA must document same and may be absolved from the educational evaluation timeline.



Rule 40: Identification and Evaluation

- The CCC must not determine a student eligible for services if:
 - The determinant factor is:
 - Lack of appropriate instruction in reading including the essential components of reading instruction which means explicit and systematic instruction in:
 - Phonemic awareness
 - Phonics
 - Vocabulary development
 - Reading fluency (including oral reading skills)
 - Reading comprehension strategies
 - Lack of appropriate instruction in math or
 - Limited English proficiency



Rule 40: Identification and Evaluation

- Once found eligible, any subsequent evaluation is a reevaluation even if the student is being evaluated because a different or additional eligibility category is suspected.
 - Reevaluation determined at ACR, reevaluation must occur by next regularly scheduled CCC meeting unless determined otherwise
 - Request for reevaluation to determine eligibility under a different or additional exceptionality area or to determine a need for related service or assistive technology
 - Must Occur Within 50 Instructional Days of Parent Consent



Initial Evaluation and Reevaluation: Recurring Themes

- Variety of assessment procedures
 - Norm-referenced, criterion-referenced, observations, interviews, etc.
- 8 domains of assessment
 - Development
 - Cognition
 - Academic Achievement
 - Functional performance or adaptive behavior
 - Communication skills
 - Motor and sensory abilities
 - Available medical and mental health information
 - Social/developmental history





- Capture the date of parental consent, date of notice to evaluate, date of receipt of consent, date of CCC meeting for DOE-SE reporting and local management
- Provide timing reminders on the dashboard
- Provide reports on evaluation compliance
- Designate necessary assessment areas based on suspected eligibility areas and other circumstances (Rule 42 logic)
- Provide a management tool for assembling all assessment reports into an educational evaluation report



Rule 4I: Eligibility Criteria

- Autism Spectrum Disorder
- Blind or Low Vision
- Cognitive Disability
- Deaf or Hard of Hearing
- Deaf-Blind
- Developmental Delay (Early Childhood ONLY)
- Emotional Disability
- Language or Speech Impairment
- Multiple Disabilities



Rule 4I: Eligibility Criteria

- Other Health Impairment
- Orthopedic Impairment
- Specific Learning Disability
- Traumatic Brain Injury
- Individualized Norm Reference Assessment (IQ Test) only required for Cognitive Disability, Multiple Disabilities and Traumatic Brain Injury
- Multidisciplinary Assessment Team may always choose to administer INRA



Rule 4I: Eligibility Criteria

Identification of a Specific Learning Disability

- Discrepancy Model for SLD Prohibited
- Involves Three Considerations:
 - Underachievement
 - Specific Learning Disability Indicator
 - Exclusion of other factors



	Elements of Definition for SLD in Article 7, 511 IAC 7-41-12(a)	Evaluation Requirement for SLD at 511 IAC 7-41-12(b)
Under-achievement	...does not achieve adequately...	1) Current academic achvmt 2) Observation
Specific Learning Disability Indicatorinsufficient progress..... when using a process based on the student's response to scientific, research-based intervention; OR	5) Assessment of Progress
pattern of strengths and weaknesses.... prohibited use of a severe discrepancy	1) Current academic achvmt 6) Any other assessments...
Exclusion of Other Factorsdoes not include learning problems primarily the result of: ... (G) lack of appropriate instruction in reading or math evidenced by...	6) Any other assessments.. 5) Assessment of Progress 3) Available medical info 4) Social/Developmental History

Rule 4I: Eligibility Criteria

- Assessments of Functional Skills or Adaptive Behavior
 - Across Various Environments
 - From Multiple Sources
- Medical Information
 - Required for:
 - Blind or Low Vision
 - Deaf or Hard of Hearing
 - Deaf-Blind
 - Otherwise limited to available medical information that is educationally relevant
 - If school wants it, school pays for it (unless parent able to provide)



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Rule 4I: Eligibility Criteria

- Systematic observation emphasizes
 - Specifying behaviors to be observed in advance
 - Using structured and standardized observation procedures (e.g., interval recording, frequency)
- Various environments and multiple sources
 - Applies to observation, functional skills, adaptive skills
 - Can include multiple school environments, if appropriate for student
- No longer required to do an ABS on all students



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Eligibility Chart - This chart illustrates the assessment components that are minimally required to be synthesized in an educational evaluation for each suspected disability as articulated in Rule 4I. If more than one disability is suspected then multiple columns would be considered. ¶

511AC7-41a	1st AUT	2nd ELL	3rd COG	4th PHYS	5th VIB	6th VIB	7th LBS
(1) Development: Assessment of developmental assets	N	N	N	N	N	(b)(1) N	N
(2) Cognitive: Assessment of cognitive ability and functioning (comprehension or educational attainment)	N	N	(b)(1) (A) N	N	N	(b)(1) N	N
(3) Academic Achievement: Assessment of current academic achievement as defined 211 IAC 7-5.2-2a	(b)(1) (A) N	(b)(1) (A) N	(b)(1) (B) N	(b)(1) (A) N	(b)(1) (A) N	N	(b)(1) (A) N
Assessment of progress and intervention	N	N	N	N	N	N	N
An observation document academic progress and behavior in areas of difficulty	N	N	N	N	N	N	N
(4) Functional Performance or Adaptive Behaviors:							
Assessment of functional skills or adaptive behavior across various environments from multiple sources	(b)(1) (B) N	(b)(1) (B) N	(b)(1) (C) N	(b)(1) (B) N	(b)(1) (B) N	N	N
An assessment of functional and behavioral functioning	N	N	N	N	N	N	(b)(1) (B) N
A functional behavioral assessment	(b)(3) N	(b)(4) N	N	N	(b)(2) N	(b)(5) N	(b)(5) N
A systematic observation across various environments	N	N	N	N	N	N	N
(5) Communication Skills:							
Assessment of communication in mode of student	N	N	N	(b)(1) (C) N	(b)(1) (C) N	N	N
An assessment of the student's receptive, expressive, pragmatic and social communication	(b)(1) (C) N	N	N	N	N	N	N
Assessment of articulation, fluency, and register	N	N	N	N	N	N	N
Observation of student's speech by an SLP	N	N	N	N	N	N	N
An assessment of functional literacy	N	(b)(1) (B) N	N	N	(b)(1) (E) N	N	N
(6) Motor and Sensory Skills:							
Vision and hearing screenings	N	N	N	N	N	(b)(4) N	N
An assessment of functional vision	N	(b)(3) (A) N	N	N	(b)(1) (D) N	N	N
An assessment of motor skills and sensory responses	(b)(1) (D) N	N	N	N	N	N	N
An assessment of motor skills including tremor, stillness	N	(b)(5) N	N	N	(b)(4) N	N	N
A written report from an optometrist or ophthalmologist	N	(b)(5) N	N	N	(b)(5) N	N	N
A written report from an otitis media or clinical audiologist, otologist, or otolaryngologist	N	N	N	(b)(3) N	(b)(5) N	N	N
A statement from a physician of oncogenic cause suspected	N	N	N	N	N	N	N
(7) Available Information: Relevant Medical History and mental health information	N	N	N	N	N	(b)(3) N	(b)(4) N
(8) Physical and Developmental History:							
(A) Age-Other Assessment or Information Necessary to Determine Eligibility and Behavior	(b)(2) N	(b)(2) N	(b)(2) N	(b)(2) N	(b)(3) N	(b)(2) N	(b)(2) N
	(b)(4) N	(b)(7) N	(b)(3) N	(b)(4) N	(b)(7) N	(b)(5) N	(b)(5) N

STACCT-41	SI LSH	SI MH	SI OH	SI OH	SI SLD	SI TBD
(1) Development: Assessment of developmental status	X					
(2) Cognitive: Assessment of cognitive ability and functioning from evidence or observation	X	(b)(1)(A)	X		X	(c)(1)(A)
(3) Academic Achievement: Assessment of current academic achievement as defined 211 IAC 7-2-2.39	U (c)(1)(B), S SI (b)(1)(B)	(b)(1)(B)	(b)(1)(A)	(b)(1)(A)	(b)(1)	(c)(1)(B)
Assessment of progress and achievement	U (c)(1)(A)	X	X	X	(b)(1)	X
An observation to document academic progress and behaviors in areas of difficulty	U (p)(3)	X	X	X	(b)(1)	X
(4) Functional Performance or Adaptive Behaviors	X	X	X	X	X	X
Assessment of functional skills or adaptive behavior across various environments from multiple sources	X	(b)(1)(C)	(b)(1)(D)	(b)(1)(D)	X	(c)(1)(C)
An assessment of emotional and behavioral functioning	X	X	X	X	X	X
A functional behavioral assessment	X	X	X	X	X	X
A systematic observation across various environments	X	(b)(1)(C)	(b)(1)(D)	X	X	X
(5) Communication Skills	X	X	X	X	X	X
Assessment of communication skills in mode of student	X	X	X	X	X	X
An assessment of the student's receptive, expressive, pragmatic and social communication	X	X	X	X	X	X
Assessment of articulation, fluency, and voice	SI (c)(1)(A)	X	X	X	X	X
Observation of student's speech by an LEP	SI (c)(1)(A)	X	X	X	X	X
An assessment of functional literacy	X	X	X	X	X	X
(6) Motor and Sensory Skills	X	X	X	X	X	X
Motor and learning screening	X	X	X	X	X	X
An assessment of functional vision	X	X	X	X	X	X
An assessment of motor skills and sensory response	X	X	X	X	X	X
An assessment of motor skills including fine motor skills	X	X	X	X	X	X
A written report from an optometrist or ophthalmologist	X	X	X	X	X	X
A written report from an educational or clinical audiologist, psychologist, or audiologist	X	X	X	X	X	X
A statement from a physician if a genetic cause suspected	SI (c)(1)(A)	X	X	X	X	X
(7) Available Informationally Relevant Skills	U (c)(1)(A), SI (c)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(c)(1)(A)
and mental health information	X	X	X	X	X	X
(8) Social and Developmental History	U (c)(1)(A), SI (c)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(c)(1)(A)
(9) Any Other Assessment or Information Necessary to Determine Eligibility and Inform the CCC	U (c)(1)(A), SI (c)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(b)(1)(A)	(c)(1)(A)

Rule 42: Determination of Services

- CCC Participants and Excusals
 - Three Categories of Personnel
 - Category 1: Persons who must be present at every CCC meeting
 - Category 2: Persons who must be present under specific circumstances
 - Category 3: Persons who must be invited under specific circumstances
 - A Category 1 may be excused in whole or in part from CCC meeting if parent and LEA agree in writing that their attendance is not necessary because their area of the curriculum or related services is not being modified or discussed
 - The parent must agree in writing and the LEA must consent to the excuse
 - The individual submits in writing input toward the development of the IEP prior to the CCC meeting

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Rule 42: Determination of Services

- CCC Participants and Excusals
 - For Category 2:
 - When CCC is considering initial eligibility – must have a member of the multidisciplinary team in attendance
 - If a student is currently or is being considered for enrollment in a State Operated School a representative from the school must be in attendance
 - If the LEA is placing the student in a nonpublic school or facility
 - **OR** developing service plan for a parentally-placed nonpublic school student the CCC must include:
 - A representative of the nonpublic school or facility
 - » If they cannot attend, the LEA must use other methods to ensure their participation

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Rule 42: Determination of Services

- CCC Participants and Excusals
 - For Category 3:
 - When a student is transitioning from First Steps to Part B the First Steps coordinator (or other representative) must, at the request of the parent, be invited
 - When postsecondary goals are being considered and a transition IEP is being developed the student must be invited as must any representative from a participating agency other than the LEA who may likely be responsible for providing or paying for the transition services.
 - MUST have consent of parent to invite
 - Document attempts / results
- At the discretion of the parent or LEA other individuals may also be invited to participate



Rule 42: Determination of Services

- No later than five instructional days prior to the initial CCC meeting the LEA must provide the parent with written notice containing:
 - A description and overall findings of each:
 - Evaluation
 - Procedure
 - Assessment
 - Record
 - Report
- Used as a basis for any proposed action
- A description of the action that may be proposed by the LEA
 - An explanation of why that action may be proposed



Rule 42: Determination of Services

- For students being assessed in ISTAR the IEP must include benchmarks or short-term objectives. OPTIONAL for all other students.
- Consent is not required for a change of educational placement
 - Written Notice must be received by the parent no later than 10 business days after the date of the CCC meeting
 - May be the IEP if the IEP includes all required components
 - IEP is implemented on 11th instructional day unless the proposed change in the IEP is challenged by the parent
 - Request an additional meeting to facilitate the disagreement
 - Initiates mediation
 - Requests a due process hearing



Rule 42: Determination of Services

- A student's CCC must meet not less than annually
- At age 14 or when the student enters the 9th grade (whichever comes first) there must be a transition IEP or T-IEP in place
- Changes (addendums) to the IEP or T-IEP may be made without a CCC meeting if the parent and the LEA agree to not convene a CCC meeting and agree to collaboratively develop a written document to amend or modify the student's current IEP or T-IEP
 - TOR must ensure all CCC participants informed of change



Rule 43: Related Services, Transitions, Transfer of Rights

- Cochlear Implants / Mapping Specifically Referenced
- At grade 9 or age 14 (whichever occurs first) student must be invited to T-IEP meeting. If doesn't attend, steps taken to ensure his/her preferences/interests are considered.
- Age-appropriate transition assessments are required.
- Beginning not later than one year prior to the student becoming 18 years of age, student and parent must be informed that rights transfer to the student at age 18.
 - Unless specifically provided otherwise in guardianship order



Rule 43: Related Services, Transitions, Transfer of Rights

- Appointment of Educational Representative
 - Student requests in writing or is certified as unable to provide informed consent for an educational representative to be appointed
 - Must be the parent unless parent is unavailable
 - Student may revoke the request
- Summary of Performance
 - Interests
 - Preferences
 - Strengths



Rule 44: Discipline Procedures

- Parent Consent is not required for a Disciplinary Change of Placement
 - Parent has the right to challenge
- Any part of a day of suspension is a day of suspension
- Manifestation Determination questions condensed to two:
 - Is the student's misconduct caused by or have a direct and substantial relationship to the student's disability?
 - Is the student's misconduct a direct result of the school's failure to implement the IEP (which includes and BIP)?



Rule 44: Discipline Procedures

- Protections For Students Not Yet Eligible
 - LEA deemed to have knowledge if any of the following have occurred:
 - The parent of the student has expressed concern in writing to licensed personnel of the appropriate public agency, or a teacher of the student, that the student is in need of special education and related services.
 - The parent of the student or the public agency has requested an evaluation of the student under 511 IAC 7-40-4.
 - The teacher of the student, or other personnel of the public agency, has expressed specific concern about a pattern of behavior demonstrated by the student directly to supervisory personnel of the public agency.



Rule 45: Complaints, Mediation and Due Process Procedures

- The CEL's complaint procedures must include a process that:
 - Provides the public agency the **opportunity to respond** to the complaint including:
 - At the discretion of the public agency, a proposal to resolve the complaint; and
 - An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation.
- Will eventually be on our website at:
http://www.doe.in.gov/exceptional/speced/complaint_investigations/welcome.html



Rule 45: Complaints, Mediation and Due Process Procedures

- Upon receipt or notification of a complaint being filed, the LEA has the discretion to:
 - Respond in writing;
 - Resolve the complaint with a written agreement signed by the complainant and the public agency;
 - Agree to mediate the complaint; or
 - Notify the Center that none of the options will be exercised, and the Center will begin the investigation.

Rule 45: Complaints, Mediation and Due Process Procedures

DAY 1

- The Center and the public agency receive the complaint.

DAY 10

- Within **10 calendar days** of receiving the complaint, the public agency has the discretion to:
 1. Respond in writing;
 2. Resolve the complaint with a written agreement signed by the complainant and the public agency;
 3. Agree to **mediate** the complaint; or
 4. Notify the Center that none of the options will be exercised, and the Center should begin the investigation.

Rule 45: Complaints, Mediation and Due Process Procedures

DAY 11

- If the public agency does not resolve the complaint or agree to **mediate**, the Center begin the complaint investigation on the 11th day.

DAY 40

- Unless an extension has been granted the Center must issue the complaint investigation report within **40 calendar days** of receiving the complaint.

7 DAYS AFTER RECEIPT OF REPORT

- Either complainant or the public agency may request reconsideration.
- 60 DAYS**
- The Director should issue the reconsideration results.

Rule 45: Complaints, Mediation and Due Process Procedures

- Parties can voluntarily utilize mediation for the following:
 - A student's identification and eligibility for services;
 - The appropriateness of the educational evaluation;
 - The appropriateness of the student's proposed or special education services or placement;
 - Any other dispute involving the provision of FAPE to a student; and
 - Reimbursement for services obtained by the parent.
- With the reauthorization of IDEA '04, parties may choose to mediate a complaint.



Rule 45: Complaints, Mediation and Due Process Procedures

- Mediations can result in the following:
 - Full agreement;
 - Partial agreement; or
 - No agreement.
- A written agreement reached by the parties in the mediation process is legally binding.
- A written, signed mediation agreement may be enforced through:
 - state court of competent jurisdiction or in a district court of the United States; or
 - the state complaint process.



Rule 45: Complaints, Mediation and Due Process Procedures

Prior Written Notice and Written Response

- If a parent requests a hearing, within 10 days of receiving a request for due process the LEA must provide **prior written notice** to the parents on the subject matter of the due process hearing requests AND **provide a written response** to the parent's due process request, addressing the issues.



Rule 45: Complaints, Mediation and Due Process Procedures

Resolution Session

- Required if a parent requests a due process hearing.
- Within 15 days of receiving a request the LEA must convene a meeting with the parent and relevant members of the CCC to allow the parents to discuss facts that form the basis of the hearing request and provide the LEA an opportunity to resolve the issues.



Rule 45: Complaints, Mediation and Due Process Procedures

- The Resolution Session may be waived by mutual written consent or agreement to mediate.
- If an agreement is reached in the resolution session, the parties must execute a legally binding agreement signed by both parties.
 - Either party may void the agreement within 3 business days of executing the agreement.
- Monitoring Requirement for the SEA
 - Indicator 18
 - Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
- In order to ensure valid and reliable data, the Center will provide a form for the LEAs to fill out after the resolution period has ended.



Information From Resolution Session

The CEL will require the LEA to provide the following information:

- Whether or not a resolution session was held;
- If yes, then:
 - What was the date of the resolution session;
 - Was an agreement reached? If yes, was it full or partial?
 - Was the due process hearing dismissed as a result of the resolution session settlement agreement?
- If no to question #1, then:
 - Was mediation used during the resolution period?
 - If yes, what was the date of the mediation?
 - Was an agreement reached?
 - Was the due process hearing dismissed as a result of the mediation agreement?



Rule 47: State Funding of Excess Costs

- To extent state funds are appropriated, the State Superintendent is authorized, under IC 20-35-6-2 to enter into contracts to fund the excess costs.
- Eligibility and placement decisions are the prerogative of the case conference committee.
- The CEL does not “place” students, our office is a funding entity only.
- A full or partial denial of funding is not a denial of services.

Rule 47: State Funding of Excess Costs

- FAPE and LRE apply to students served through this process. Distance is an LRE factor and must be considered.
- The process for appealing a denial of funding is a hearing based on the EDGAR model. This process will be different than a “special education due process hearing”.

Rule 47: State Funding of Excess Costs

Funding of community-supported services is approved as follows:

From May 16, 2008 determined by program day after the end of the current contract
Through May 21, 2009 determined by duration date of the current IEP

Provider: Louisville Deaf Oral School

Child count, teacher of record, and special education instruction provided by: school corporation of legal settlement - NAME
out-of-state public school

Home school's financial contribution to the contract: per capita expenditure

INFORM D.O.E. IMMEDIATELY ABOUT ANY CHANGES IN THE FINANCES FOR THIS STUDENT:
NEED FOR INCREASED SERVICES => REAPPLICATION
PARENT(S) MOVE => REAPPLICATION
NO MORE D.O.E. FUNDS NEEDED => FUNDING CHANGE NOTICE (use attached form)
REDUCTION IN SERVICES => FUNDING CHANGE NOTICE (use attached form) - frees up funds for others
SERVICES END EARLY => FUNDING CHANGE NOTICE (use attached form) - frees up funds for others

#14	05-16-08	- 05-22-08	Day program - tuition / education	fee	school's part	DOE's part
	866.14	/ day x 4	program days	\$264.06	\$116.32	\$148.24
#24	05-17-08	- 05-22-08	Speech / language therapy	per week		
	595.00	/ hour x 1	hour / week x 1	595.00	\$0.00	\$595.00
			PIVOT SUB TOTALS	\$359.06	\$116.32	\$242.74
#10	08-12-08	- 05-21-09	Day program - tuition / education	fee	school's part	DOE's part
	869.46	/ day x 175	program days	\$151.55	\$5,089.00	\$7,066.00
#20	08-12-08	- 05-21-09	Speech / language therapy	per week		
	595.00	/ hour x 1	hour / week x 38	\$3,610.00	\$0.00	\$3,610.00
			PIVOT SUB TOTALS	\$15,721.06	\$5,089.00	\$10,632.06
			APPROVAL PERIOD TOTALS	\$16,120.06	\$5,205.32	\$10,914.74

Rule 47: State Funding of Excess Costs

STATE FUNDING OF EXCESS COSTS

OPTION 1: (a) APPLICABLE ONLY (b) APPLICABLE TO THE FOLLOWING FOR THIS STUDENT:

1. <u>YES</u> FOR INDEMNITY SERVICES	1. <u>NO</u> APPLICABLE
2. <u>YES</u> FOR ADVISORY	2. <u>NO</u> APPLICABLE
3. <u>NO</u> FOR U.S. FUNDING	3. <u>NO</u> APPLICABLE
4. <u>NO</u> FOR U.S. FUNDING	4. <u>NO</u> APPLICABLE
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